

THE HON'BLE SRI JUSTICE GODA RAGHURAM
AND
THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

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WRIT PETITION No.9718 of 2006

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Dated 09-05-2006

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Between:

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M/s Kaleesuwari Refinery Private Limited. ..Petitioner

And
The Deputy Commercial Tax Officer,
Chittoor, and another. ..Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM
AND
THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY
WRIT PETITION No.9718 of 2006

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O R D E R: (Per GR,J)

Heard Sri P. Srinivasa Reddy for the petitioner and the learned Government Pleader for Commercial Tax for the respondents.

Petitioner is aggrieved by the action of the first respondent in detaining its lorry bearing No.TN 23F 8326 while transporting refined sunflower oil from Hyderabad to Trichy. The detention is challenged as without jurisdiction and contrary to Section 45 of the Andhra Pradesh Value Added Tax, 2005 (hereinafter referred to as 'the Act') and the relevant Rules thereunder. Petitioner has been issued a show-cause notice dated 01-05-2006 alleging failure to properly account for the transaction in the documents. Show-cause notice purports to initiate action under Section 45 (7) (a) of the Act on the ground that the transaction has not been properly accounted for in the documents referred to under Section 45 (2) (b) of the Act. By a distinct order of even date, the first respondent has issued a penalty notice on the petitioner calling upon it to pay tax at the rate of 10% on the value of the interstate sale turnover of Rs.8,03,400/-, determining the tax liability at the rate of Rs.80,340/-. To the show-cause notice the petitioner filed a reply.

Petitioner is aggrieved by the detention of the lorry along with the sunflower oil on the ground that a prolonged detention and laidback determination of the disputes of the tax liability of the petitioner by the respondents would result in the deterioration of the goods i.e., sunflower oil. Petitioner is willing to pay the disputed tax liability of Rs.80,340/- as specified in the first respondent's penalty notice dated 01-05-2006 subject to the determination of liability at the final assessment proceedings and without prejudice to any of its contentions there at.

In the circumstances above, the writ petition is disposed of directing the respondents to release the petitioner's lorry bearing No.TN 23F 8326 along with the goods therein on prior condition that the petitioner deposits Rs.80,340/- with the second respondent favouring the second respondent. No costs.

GODA RAGHURAM

M. VENKATESWARA REDDY

Dated 09-05-2006

Note:

Issue CC by 10-05-2006.

B/o

ghn/kvni